

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of the Office of Financial and Insurance Services

In the matter of:

Family Credit Counseling Corporation

Enforcement Case No. 06-4599

James R. Armstrong

Respondents

Issued and entered
this 20th day of October 2006
by Richard D. Lavolette,
Chief Deputy Commissioner

ORDER TO CEASE AND DESIST

The Office of Financial and Insurance Services (OFIS) of the Michigan Department of Labor & Economic Growth, pursuant to the Michigan Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 *et seq.*; the Debt Management Act, 1975 PA 148, as amended; MCL 451.411 *et seq.* (Act), and the rules promulgated under the Act, says that:

I.

BACKGROUND

1. Respondent Family Credit Counseling Corporation (hereinafter "FCCC") is a business located at 4850 N State Road 7, Suite G-102, Lauderdale Lakes, FL 33319.
2. Respondent James R. Armstrong, Jr. (hereinafter "Armstrong") is an agent of FCCC and is located at 4850 N State Road 7, Suite G-102, Lauderdale Lakes, FL 33319.
3. OFIS is responsible for the licensing and regulation of debt management companies and the enforcement of the provisions of the Act.
4. At all times pertinent to the matter herein, Respondents FCCC and Armstrong were not licensed by OFIS to conduct debt management services in the State of Michigan.
5. On April 29, 2005, Respondent FCCC entered into a debt management contract with a Michigan consumer.

6. On May 9, 2005, Respondent FCCC entered into a debt management contract with _____, a Michigan consumer.
7. On or about December 27, 2005, OFIS received a complaint from _____ alleging that Respondent FCCC failed to pay creditors in a timely manner, neglected to make payments to creditors, and failed to answer phone calls or respond to concerns the Sharps had regarding the foregoing conduct.
8. On May 9, 2005, _____ provided Respondent FCCC with a voided check and authorized Respondent FCCC to process debit entries from their checking account each month until the debts are paid in full, or the authorization has been terminated or altered. This authorization allowed Respondent FCCC to debit \$639.00 every month from the _____ checking account. The first debit entry was scheduled to take place on May 21, 2005.
9. Respondent FCCC charged _____ a monthly handling fee for administering the debt management plan.
10. On or about December 29, 2005, OFIS received a complaint from _____ alleging that Respondent FCCC failed to pay creditors in a timely manner, neglected to make payments to creditors, and failed to answer phone calls or respond to concerns _____ had regarding the foregoing conduct.
11. On May 19, 2005, _____ provided Respondent FCCC with a voided check and authorized Respondent FCCC to process debit entries from his checking account each month until his debts are paid in full, or the authorization has been terminated or altered. This authorization allowed Respondent FCCC to debit \$200.00 every month from _____ checking account. The first debit entry was scheduled to take place on June 6, 2005.
12. Respondent FCCC charged _____ a monthly handling fee for administering the debt management plan.
13. On May 23, 2006, OFIS received an anonymous complaint from a former employee of Respondent FCCC, the complaint alleges that Respondent FCCC is involved in debt management services and provides debt management services to numerous residents of the State of Michigan.
14. On February 3, 2006, OFIS sent by certified mail a letter to Respondent Armstrong requesting certain information about FCCC's debt management business. Respondents failed to respond within the required timeframe set forth in the Act to the February 2006 letter.

15. On or about March 29, 2006, OFIS sent by certified mail a letter to Respondent Armstrong requesting certain information about FCCC's debt management business. Respondents failed to respond within the required timeframe set forth in the Act to the March 2006 letter.
16. On or about May 5, 2006, OFIS sent by certified mail a letter to Respondent Armstrong requesting certain information about FCCC's debt management business. Respondents failed to respond within the required timeframe set forth in the Act to the May 2006 letter.
17. On or about August 10, 2006, OFIS staff received a letter from the Respondents' attorney. However, the letter failed to address Respondents' unlicensed activity, or provide OFIS with the information it requested in the aforementioned letters.

WHEREAS, Section 2(a) of the Act, MCL 451.412(a), states that the business of debt management means providing or offering to provide debt management to 1 or more residents of this state; and

WHEREAS, Section 2(d) of the Act, MCL 451.412(d) of the Act, MCL 451.412(d), states that debt management means the planning and management of the financial affairs of a debtor and the receipt of money from the debtor for distribution to a creditor in payment or partial payment of the debtor's obligations; and

WHEREAS, OFIS has information that Respondents FCCC and Armstrong are engaged in debt management and/or the business of debt management within the State of Michigan; and

WHEREAS, Section 4(1) of the Act, MCL 451.414(1), requires all persons located within or outside the boundaries of the State of Michigan to be licensed in order to conduct debt management business in the State of Michigan; and

WHEREAS, Respondents FCCC and Armstrong are not licensed with the State of Michigan under the Act; and

WHEREAS, Section 4(1) of the Act, MCL 451.414(1), provides that a contract of debt management as defined by this Act made by a person without a license is null and void.

WHEREAS, Section 23(3)(b) of the Act, MCL 451.433(3)(b), permits the Commissioner to require a statement in writing regarding the facts and circumstances surrounding the matter to be investigated and that the statement be filed with OFIS within 15 days; and

WHEREAS, on or about February 3, 2006, March 29, 2006, and May 5, 2006, OFIS requested information from Respondent Armstrong regarding FCCC's debt management practice in the State of Michigan. OFIS received an untimely and insufficient response from Respondents Armstrong and FCCC on August 10, 2006; and

WHEREAS, based on the foregoing, OFIS staff recommends that the Commissioner finds that Family Credit Counseling Corporation is engaged in acts or practices that violate Section 4, and 23 of the Act and Rules promulgated under the Act; and

WHEREAS, this action is necessary, appropriate and in the public interest for the protection of the public and consistent with the purposes fairly intended by the policy and provisions of the Act.

IT IS THEREFORE ORDERED that, pursuant to Section 23 of the Act, MCL 451.433, and Section 24 of the Act, MCL 451.434, that:

1. Respondents Armstrong and FCCC shall immediately CEASE AND DESIST from transacting the business of debt management in the State of Michigan without being licensed under the Act.
2. Within 30 days of the issuance and entry of this Order, Respondents Armstrong and FCCC shall immediately cancel any and all debt management contracts they have with residents of the State of Michigan.
3. Within 30 days of the issuance and entry of this Order, Respondents Armstrong and FCCC shall refund all the fees Respondent FCCC collected from Michigan residents who entered into a debt management contract with Respondents Armstrong or FCCC.
4. Respondents Armstrong and FCCC shall provide their Michigan clients with a list of debt management companies licensed by OFIS, and transfer all of their Michigan accounts to a Michigan licensed debt management company, within 30 days of the issuance and entry of this Order.
5. Within 30 days of the issuance and entry of this Order, Respondents Armstrong and FCCC shall provide OFIS with written documentation indicating that they have provided their Michigan clients with a list of Michigan licensed debt management companies, and transferred their Michigan client accounts to a debt management company licensed by OFIS.
6. Respondents Armstrong and FCCC shall, within 30 days of the issuance and entry of this Order, provide OFIS with the name(s) of the licensed debt management company they have transferred their Michigan client accounts to. This document shall also include the names and addresses of the Michigan residents whose accounts have been transferred to a licensed debt management company.
7. Respondents Armstrong and FCCC shall refund , within 30 days of the issuance and entry of this Order, all of the fees Respondent FCCC collected from for administering his debt management plan.

8. Respondents Armstrong and FCCC shall refund _____, within 30 days of the issuance and entry of this Order, all of the fees Respondent FCCC collected from _____ for administering his debt management plan.
9. Failure to comply with this ORDER will subject Respondents Armstrong and FCCC to one or more of the following:
 - (a) A person who knowingly authorizes, directs, or aids in violation of a final cease and desist order, or who knowingly fails to comply with the terms of a final cease and desist order, is guilty of a misdemeanor, and may be fined not more than \$5,000.00, or imprisoned for not more than 6 months, or both. Each violation constitutes a separate offense.
 - (b) A person who violates an injunction or a cease and desist order issued pursuant to this act is guilty of criminal contempt.
10. Any other communication regarding this Order should be addressed to the Office of Financial and Insurance Services, Office of General Counsel, Attention: Marlon F. Roberts, Staff Attorney, P.O. Box 30220, Lansing, Michigan 48909.

MICHIGAN DEPARTMENT OF
LABOR & ECONOMIC GROWTH



Richard D. Lavolette
Chief Deputy Commissioner
Office of Financial and Insurance Services